

## **REMARKS**

Claims 1, 3-12 and 14 remain pending in the present application. Claim 2 has been cancelled. Claims 1 and 3 have been amended. Basis for the amendments can be found throughout the specification, claims and drawings as originally filed.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1-12 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ashiba '014 in view of Knecht, et al. or Popjoy, et al. Applicant respectfully traverses this rejection. Ashiba discloses a shock absorber having a piston assembly including valve assemblies and a housing 208 defining a pressure chamber attached to the piston rod. A piston 220 defines an upper fluid chamber 215A and a lower fluid chamber on either side thereof and a first bleed valve assembly 224.

Bleed valve assembly 224, as shown in Figure 21, comprises valve body 226, passage member 227, disc 228 and partition plate 225. During a rebound stroke, valve body 226 is urged against passage member 227 to define a bleed orifice 227a. During a compression stroke valve body 226 is spaced from passage member 227 and the bleed orifice is defined by orifice 225a. The passage area of the orifice formed by valve body 226 and notch 227a is smaller than that of the orifice 225a in partition plate 225. The passage area of the total opening of notch 227a is larger than the passage area of orifice 225a. Thus, during a rebound stroke, the bleed orifice is reduced in size and during a compression stroke the bleed orifice is increased in size. This is the only configuration possible in Ashiba since during a rebound stroke when valve body 226 is urged against passage member 227 to form bleed orifice 227a, fluid flow through orifice

227a flows through orifice 225a and to have any effect, the formed orifice (226 and 227a) must be smaller. The notch 227a without valve body 226 must be larger than orifice 225a so it will not restrict flow from orifice 225a during a compression stroke.

The Examiner proposes adding the needle valves of Knecht, et al. or Popjoy, et al. to the piston of Ashiba. The Examiner's justification for this is to meter the flow through valve 225 (224). As detailed above, the flow through valve assembly 224 is already metered by valve body 226 such that a smaller restriction is provided during rebound than during compression. Thus, there is no incentive to add metered fluid flow through valve assembly 224 since it is already metered.

If we assume that the Examiner proposes to replace elements 226-228 of Ashiba with a needle valve, this replacement actually teaches away from Ashiba since it would reverse the bleed valve sizing of Ashiba and have a smaller orifice during compression strokes than the orifice size during an extension stroke. During a rebound stroke, piston 220 moves downward pulling the bleed valve from orifice 225a to increase its size. (Opposite to the reduction in size of valve body 226). During a compression stroke, piston 220 moves upward pushing the bleed valve into orifice 225a to decrease its size. (Opposite to the increase in size of orifice 225a and notch 227a).

There is no suggestion to combine, however if a reference teaches away from its combination with another reference. Fine, 837 F.2d at 1075, 5 USPQ 2d at 1599.

Thus, Applicant believes that Claim 1 patentably distinguishes over the art of record. Likewise, Claims 3-12 and 14, which ultimately depend from Claim 1, are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

## CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: 

Michael J. Schmidt, 34,007

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

MJS/pmg